



December 16, 2020

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Subject: Shoreline Exemption Application – Post Emergency Action Review Requirements
Electron Hydro Facility Compliance, Shoreline Substantial Development Permit
Application 858766 and 858765

Mr. Fischer,

As requested at our December 1st meeting, we have prepared this letter to clarify the application requirements detailed in the County's November 24th letter. That letter explained that a new Shoreline Substantial Development (SD) permit and SEPA review would be required to resolve the County Stop Work Orders dated August 5, 2020 and November 16, 2020. Having gone back through previous discussions (Specifically, the June 2020 Customer Information Meeting), we now recognize that a Conditional Use Permit is also needed, for the fish rearing facility.

This is as complete a description of application needs as we can provide at this time. Phase 2 plans as we understand them include a rather wide assortment of items, ranging from a suspension bridge to setback levee. As such, additional review requirements may be identified through the course of review.

The Project encompassed by the new SD/CP and SEPA review consists of:

- 1) Completion of the diversion structure project approved by the Examiner on June 26, 2018 (Substantial Development Permit - "SDP" - application #858766).
- 2) Removal of the rock sill dam allowed pursuant to the County's letter of October 2, 2020.
- 3) Phase 2 project elements.
- 4) A variety of unpermitted actions identified during site visits:
 - a. Armoring of the right riverbank, downstream of the fish ladder.
 - b. Construction of storm ponds/fish rearing facility on the left bank, downstream of the diversion structure.
- 5) Access stairs (constructed pursuant to County e-mail of August 18, 2020) and associated railing.
- 6) General site maintenance actions.
- 7) Turf and Crumb Rubber removal actions.

Application Requirements

1. Diversion Structure – With the exception of the need to remove the rock dam, we presume that the design details of, and installation method for, the new bladder structure remain unchanged from what was provided in applications 858766 and 858765. If this is accurate, and all aspects of that feature remain unchanged, you don't have to resubmit all the information provided in 2017 for those applications. We will associate the 2017 materials with the new applications.

If any aspects of the diversion structure have changed, you will need to provide the new, revised design information.

In either case, there will need to be a discussion of how you avoid the concerns over HDPE liner adequacy that led to the use of field turf. Presumably, a different sort of liner will be proposed, or additional thicknesses of the same sort of liner? If you believe a liner is not required, that needs to be explained

2. Rock dam removal - The design of the rock sill dam was provided to us in a November 5, 2020 e-mail from Mr. Spens. For purposes of removing this structure, we don't need any other plans but, we do need those November 5th plans included within the application along with a narrative description of how the structure will be removed.

3. Phase 2 elements - The County has a general understanding of the elements of Phase 2, based upon various discussions and a June 23, 2020 customer information meeting (#937002). Representatives from our Engineering, Resource, and Planning sections were in attendance at the information meeting.

- Engineering staff (Jeff Kidston) explained that a site development permit is needed for any "clearing or grading associated with the proposed work and or placement of material excavated from the side channel". A HEC-RAS model for zero-rise is to be provided.
- Resource (Dave Risvold) explained that the project triggered wetland and fish & wildlife review. Having been to the site several times now, and assuming Phase 2 hasn't changed from previous discussions or correspondence, we find formal wetland review can be omitted. Fish and Wildlife review will be required. You will need to make application for the County's review of either a "Habitat Assessment Study" or "Habitat Assessment Report", as may be appropriate for the project. The specific requirements of each type of application are found in 18E.40.070, Appendices C and D, respectively. You can submit a stand-alone document to satisfy fish and wildlife review or, as you did with Phase One, submit a Biological Evaluation that includes the information required by 18E.40.070.
- Planning (Andrew Van Gordon) explained that a SDP and a Conditional Use Permit ("CP") would be required. Staff also noted their willingness to consider Electron's assertion that the fish rearing facility could be regarded appropriately as something other than "aquaculture" – which could remove the need for the CP.

4. Unpermitted actions – a number of actions have occurred without County review or approval. They range from fairly minor activities done to comply with water quality requirements of the Department of Ecology (“SWPP” items), to actions intended to qualify as “repair and maintenance”, to more significant actions (armoring the right river bank, downstream of the fish ladder; and construction of storm ponds/fish rearing facility on the left bank, downstream of the diversion structure).

- We don’t need formal plans for the access road maintenance and ditch work that was done in association with the SWPP, but we do need a narrative in the application that describes the work. Please see “Future Site Maintenance” discussion.
- We need plans for the work that was done along the left bank. We recognize your point that was slightly out-of-kind replacement of the ecology block wall that had been present prior to start of the diversion structure project. We need to see that reflected in the application, if not with actual plans than with before-and-after photos.
- The most challenging of the unpermitted actions that we are aware of, from a permitting perspective, is likely to be the bank armor. Specific criteria must be met to be allowed to place hard armor on a shoreline (please see PCC 18S.30.070 Shoreline Stabilization and PCC 18E.110 Erosion Hazard Regulations, for specific regulatory requirements).

5. Access Stairs - Construction of cement stairs, connecting the upper landing to the work area, was allowed based upon their importance in protecting water quality. The stairs, and proposed railing, need to be permitted through the SDP/CP shoreline review.

6. Site Maintenance – We recognize the desire for flexibility in our approval to allow for routine maintenance tasks. Please provide as detailed a discussion/description of the types of work you consider “maintenance” that you expect to engage in, so that we can structure the County approval to allow for it.

7. Turf and Crumb Rubber removal actions

The application must address the loss of and removal process for, the field turf and crumb rubber, along with a comprehensive evaluation of their potential for ecological impact.

The Shane Cherry Draft Material Removal Plan, dated August 13, 2020 offered an initial assessment of the impacts to the river system as a result of the turf and rubber loss, making clear that “This initial removal plan does not include a full ecological risk assessment associated with the presence of Field Turf and crumb rubber in the Puyallup River”.

The August 13, 2020 Removal Plan also provided an initial plan for removal of the material, consisting of visual surveys by Electron staff and removal of material as it is found. Those surveys have been ongoing but, as noted in our letter of November 24th, we need to improve upon this inspection and removal process as evidenced by the

continued discovery of turf pieces. A number of questions were posed in the November letter which remain unanswered. We also have yet to hear from Mr. Cherry regarding opportunities for improvements to the process.

In summary: to resolve the County Stop Work Orders, you need to make application for a Shoreline Substantial Development and Conditional Use Permit pursuant to PCC Title 18S, and Environmental Review pursuant to PCC Title 18D. The applications need to include the seven elements listed above in this letter. We would be happy to discuss in more detail the application process with you. We also encourage you to schedule a Customer Information Meeting so that you can discuss this with review staff.

This letter does not alter your obligations and requirements as specified in the prior County Amendments to Stop Work Order. Please note the approvals described in those Amendments do not constitute a new permit or supersede the current SDP.

If you have any questions, contact Dave Risvold at dave.risvold@piercecounitywa.gov, 253-798-7036 (desk) or 253-307-5929 (cell).

Sincerely,



Melanie D. Halsan
Assistant Director, Planning and Public Works

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Doug Richardson, Chair, Pierce County Council
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